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STATUTORY INSTRUMENTS

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**2006 No. 213**

**The Housing Benefit Regulations 2006**

**PART 13**

Overpayments

**Person from whom recovery may be sought**

**101.**—(1) For the purposes of section 75(3)(a) of the Administration Act <sup>M1</sup> (prescribed circumstances in which an amount recoverable shall not be recovered from the person to whom it was paid), the prescribed circumstance is—

- (a) housing benefit has been paid in accordance with regulation 95 (circumstances in which payment is to be made to the landlord) or regulation 96 (circumstances in which payment may be made to a landlord);
- (b) the landlord has notified the relevant authority or the Secretary of State in writing that he suspects that there has been an overpayment;
- [<sup>F1</sup>(bb) the relevant authority is satisfied that the overpayment did not occur as a result of any change of dwelling occupied by the claimant as his home;]
- (c) it appears to the relevant authority that, on the assumption that there has been an overpayment—
  - (i) there are grounds for instituting proceedings against any person for an offence under section 111A or 112(1) of the Administration Act <sup>M2</sup> (dishonest or false representations for obtaining benefit); or
  - (ii) there has been a deliberate failure to report a relevant change of circumstances contrary to the requirement of regulation 88 (duty to notify a change of circumstances) and the overpayment occurred as a result of that deliberate failure; and
- (d) the relevant authority is satisfied that the landlord—
  - (i) has not colluded with the claimant so as to cause the overpayment;
  - (ii) has not acted, or neglected to act, in such a way so as to contribute to the period, or the amount, of the overpayment.

[<sup>F2</sup>(2) For the purposes of section 75(3)(b) of the Administration Act (recovery from such other person, as well as or instead of the person to whom the overpayment was made), where recovery of an overpayment is sought by a relevant authority—

- (a) subject to paragraph (1) and where sub-paragraph (b) or (c) does not apply, the overpayment is recoverable from the claimant as well as the person to whom the payment was made, if different;
- (b) in a case where an overpayment arose in consequence of a misrepresentation of or a failure to disclose a material fact (in either case, whether fraudulently or otherwise) by or on behalf of the claimant, or by or on behalf of any person to whom the payment was made, the

overpayment is only recoverable from any person who misrepresented or failed to disclose that material fact instead of, if different, the person to whom the payment was made; or

- (c) in a case where an overpayment arose in consequence of an official error where the claimant, or a person acting on the claimant’s behalf, or any person to whom the payment was paid, or any person acting on their behalf, could reasonably have been expected, at the time of receipt of the payment or of any notice relating to that payment, to realise that it was an overpayment, the overpayment is only recoverable from any such person instead of, if different, the person to whom the payment was made.]

[<sup>F3</sup>(2A) Where an overpayment is made in a case where a relevant authority has determined a maximum rent (LHA) in accordance with regulation 13D (determination of a maximum rent (LHA)), and the housing benefit payable exceeds the amount which the claimant is liable to pay his landlord by way of rent, the relevant authority must not recover from the landlord more than the landlord has received.]

(3) For the purposes of [<sup>F4</sup>paragraphs (1) and (2A)], “landlord” shall have the same meaning as it has for the purposes of regulation 95.

[<sup>F5</sup>(3A) For the purposes of [<sup>F6</sup>paragraph (2)(c)], “overpayment arose in consequence of an official error” shall have the same meaning as in [<sup>F5</sup>regulation 100(3)] above.]

<sup>F7</sup>(4) .....

**Textual Amendments**

- F1** Reg. 101(1)(bb) inserted by S.I. 2005/2904, reg. 6(2) (as amended) (10.4.2006) by [The Housing Benefit and Council Tax Benefit \(Consequential Provisions\) Regulations 2006 \(S.I. 2006/217\)](#), reg. 1(1), **Sch. 2 para. 29(7)(b)** (with regs. 2, 3, Sch. 3, Sch. 4)
- F2** Reg. 101(2) substituted (6.4.2009) by [The Housing Benefit and Council Tax Benefit \(Amendment\) \(No. 2\) Regulations 2008 \(S.I. 2008/2824\)](#), regs. 1(2), **4(2)(a)**
- F3** Reg. 101(2A) inserted (7.4.2008) by [The Housing Benefit \(Local Housing Allowance, Information Sharing and Miscellaneous\) Amendment Regulations 2008 \(S.I. 2008/586\)](#), regs. 1, **2(2)(a)**
- F4** Words in reg. 101(3) substituted (7.4.2008) by [The Housing Benefit \(Local Housing Allowance, Information Sharing and Miscellaneous\) Amendment Regulations 2008 \(S.I. 2008/586\)](#), regs. 1, **2(2)(b)**
- F5** Reg. 101(3A) inserted and words in reg. 101(3A) substituted by S.I. 2005/2904, reg. 6(4) (as amended) (10.4.2006) by [The Housing Benefit and Council Tax Benefit \(Consequential Provisions\) Regulations 2006 \(S.I. 2006/217\)](#), reg. 1(1), **Sch. 2 para. 29(7)(d)** (with regs. 2, 3, Sch. 3, Sch. 4)
- F6** Words in reg. 101(3A) substituted (6.4.2009) by [The Housing Benefit and Council Tax Benefit \(Amendment\) \(No. 2\) Regulations 2008 \(S.I. 2008/2824\)](#), regs. 1(2), **4(2)(b)**
- F7** Reg. 101(4) omitted (6.4.2009) by virtue of [The Housing Benefit and Council Tax Benefit \(Amendment\) \(No. 2\) Regulations 2008 \(S.I. 2008/2824\)](#), regs. 1(2), **4(2)(c)**

**Marginal Citations**

- M1** Subsection (3) was substituted by the [Child Support, Pensions and Social Security Act 2000 \(c. 19\)](#), **section 71**.
- M2** Section 111A was inserted by the [Social Security Administration \(Fraud\) Act 1997 \(c. 47\)](#), **section 13**; section 112(1) was amended by paragraph 4(2) of Schedule 1 to the same Act, by the [Child Support, Pensions and Social Security Act 2000](#), section 67 and Schedule 6, paragraph 6

**Changes to legislation:**

There are currently no known outstanding effects for the The Housing Benefit Regulations 2006, Section 101.